

304.7-411 Tangible personal property or equity interests acquired through partnerships, joint ventures, trust certificates, and similar instruments.

- (1) (a) Subject to the limitations of KRS 304.7-403, an insurer may acquire tangible personal property or equity interests therein located or used wholly or in part within a domestic jurisdiction either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by KRS 304.7-363(4), joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments.
- (b) Investments acquired under paragraph (a) of this subsection shall be eligible only if:
 1. The property is subject to a lease or other agreement with a person whose rated credit instruments in the amount of the purchase price of the personal property the insurer could then acquire under KRS 304.7-405; and
 2. The lease or other agreement provides the insurer the right to receive rental, purchase, or other fixed payments for the use or purchase of the property, and the aggregate value of the payments, together with the estimated residual value of the property at the end of its useful life and the estimated tax benefits to the insurer resulting from ownership of the property, shall be adequate to return the cost of the insurer's investment in the property, plus a return deemed adequate by the insurer.
- (2) The insurer shall compute the amount of each investment under this section on the basis of the out-of-pocket purchase price and applicable related expenses paid by the insurer for the investment, net of each borrowing made to finance the purchase price and expenses, to the extent the borrowing is without recourse to the insurer.
- (3) An insurer shall not acquire an investment under this section if, as a result of and after giving effect to the investment, the aggregate amount of all investments then held by the insurer under this section would exceed:
 - (a) Two percent (2%) of its admitted assets; or
 - (b) One-half of one percent (0.5%) of its admitted assets as to any single item of tangible personal property.
- (4) For purposes of determining compliance with the limitations of KRS 304.7-403, investments acquired by an insurer under this section shall be aggregated with those acquired under KRS 304.7-405, and each lessee of the property under a lease referred to in this section shall be the issuer of an obligation in the amount of the investment of the insurer in the property determined as provided in subsection (2) of this section.
- (5) Nothing in this section is applicable to tangible personal property lease arrangements between an insurer and its subsidiaries and affiliates under a cost sharing arrangement or agreement permitted under KRS 304.37-030.

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